

## TIPP CITY COUNCIL MEETING

TIPP CITY, MIAMI COUNTY, OHIO

APRIL 16, 2007

**Roll Call**

President William D. Beagle called to order the regular meeting of the Tipp City Council at 6:47 p.m. Roll call showed the following Council Members present: Rick Mains, Jr., Vickie K. Blakey, Donald H. Ochs, William D. Beagle, Mayor George H. Lovett, Tim Evans, and Patrick Hale.

**Executive Session**

Mr. Mains moved to adjourn to Executive Session to discuss pending litigation to include the City Manager and Law Director, seconded by Mr. Hale. The Executive Session concluded at 7:14 p.m. on a motion made by Mr. Evans, seconded by Mr. Hale. City Council then moved into a Study Session to discuss the Main Street Streetscape Phase II Project.

**Study Session****Main Street****Streetscape Phase II**

Mr. Collinsworth opened the Study Session at 7:15 p.m. Council Members in attendance included: President William D. Beagle, Vickie K. Blakey, Rick Mains, Jr., Tim Evans, Mayor George H. Lovett, Donald H. Ochs, and Patrick Hale.

Others in attendance included: Law Director Joseph P. Moore, Assistant City Manager Bradley Vath, City Engineer Scott P. Vagedes, Susanne McGillvary, Floyd and Marie McGillvary, Nathan Street, *Independent Voice* reporter Matt Bayman, *Tipp Herald* reporter Mike Kelly and Clerk of Council Misty Cheshire.

Mr. Vagedes reported that bids were taken for Phase II of the Main Street Streetscape project running from Tippecanoe Drive to Hyatt Street. A total of 5 bids were received ranging from a low of \$1,056,494.63 to a high of \$1,236,712. The lowest and best bid was received from Double Jay Construction, Inc. in the amount of \$1,056,494.63. Mr. Vagedes noted that \$1,250,100 had been appropriated for the construction of this project, which included a \$350,000 grant from ODOT Round 20, a \$275,000 grant from ODOT TE funds, a \$92,000 grant from ODOT paving funds, \$333,000 from Electric Funds, \$53,000 from Water Funds, and \$125,000 from Sanitary Sewer Funds.

Mr. Vagedes noted that Double Jay Construction, Inc. was an ODOT pre-qualified contractor and although Tipp City has not had any recent experience with them, Choice One Engineering has and recommends award of our Streetscape project to Double Jay Construction.

Mr. Vagedes predicted that the project would begin the first week of May and be complete by September. The project would include the clearing of trees, installation of water, sewer, and storm sewer lines, replacement of curb and sidewalks, and resurfacing of the roadway. During construction traffic would shift to the left and right sides of the roadway. Residents would have access to property in the evenings.

Mr. Mains asked if the homeowners had been told which trees would be removed. Mr. Vagedes stated that the trees that are going to

be removed have been identified and the home owners have been notified.

Mr. Vagedes noted that QCI was hired for the ODOT inspections and City Inspector John Bodiker would be the onsite inspector for the project.

#### **Reconvene**

The study session concluded at 7:28 p.m. City Council reconvened in regular session at 7:39 p.m.

In attendance: City Manager David A. Collinsworth, Law Director Joseph P. Moore, Assistant City Manager Bradley C. Vath, City Engineer Scott Vagedes, EMS Chief Mark Senseman, Police Chief Tom Davidson, Officer Stephanie Black, Sergeant Chris Graham, Officer Adam Grubb, Sergeant Gary Gulden, Officer John Paul, Sergeant Joe Mauro, *Independent Voice* reporter Matt Bayman, *Tipp Herald* reporter Mike Kelly, and Clerk of Council Misty Cheshire.

Citizens signing the register included: Nathan Street, Matthew Witwer, Mike Witwer, Pastor James R. Hartland, Kellen Zawadzki, Kyle Weber, Chris Baker, Joseph Linsenmeyer, J. Sheth, Jeannie Green, Suzanne McGillvary, Floyd and Marie Gillvary, Alan Armstrong, J. Sadler, S. Wilder, T. Taylor, Shayne Boomershine, Chelsea Libardi, Amanda Hopkins, Justin Flint, Chre Beck, Larry Brown, Ruth Safreed, Josh Vance, Bill Mikolajewski, Ryan Hale, Bill Bradley, Jake Roberts, Aaron Gunter, Casey Williams, Mike McDermott, Dee Gillis, Tyler Brown, Scott Wright, Marc McKinney, Mike Bradley, Vince Bradley, Dustin Reinhard, Chelsea Myers, Cory McDaniel, David Burig, Sean Ragon, Josh Swihart, Brad Werkentine, John Flint, Andrea Alvarez, Rachel Hooper, Emily Carus, Katie Ferguson, Nick Sutton, Chris Wited, Chris Renner, Casey Voris, Josh Shaw, Lauren Johnson, Ashlee Turnbull, Erin Davis, Don Rhoades, Sue Amlin, C. Crone, Robert Goldsberry, Devin Booker, Cindy Guldes, Ryan Hutchinson, John Polansky, Lee Dynes, Alex Drake, J. Hedrick, Tiffany Heffner, Kirsten Hutchinson, Megan Stutz, Robert Wheeler, Myles Stewart, Keith Shaw, Matt Helping, Brad Kennard, Doris Dodd, and Daniel Suit.

#### **Invocation and Pledge of Allegiance**

Pastor James Hartland from the Tipp United Methodist Church delivered the invocation. President Beagle led the Pledge of Allegiance.

#### **Approval of Agenda**

Mr. Ochs moved, seconded by Mr. Hale, to approve the agenda. The motion carried.

#### **Adoption of Minutes**

Mrs. Blakey moved to adopt the minutes of the April 2, 2007 City Council Meeting, seconded by Mr. Evans. The motion carried with a vote of 7-0.

#### **Presentations & Awards Service Awards**

Mr. Collinsworth, Mayor Lovett, and Chief Davidson, presented plaques to Sergeant Gary Gulden and Officer John Paul to honor their 30 years of service to the City of Tipp City.

#### **Arbor Day Proclamation**

Mayor Lovett proclaimed April 27, 2007 as Arbor Day in the City of Tipp City. A tree planting ceremony will take place at 10 a.m. on April 27<sup>th</sup> in Kyle Park.

**Ordinances**

(Second Reading and  
Public Hearing)

Ordinance 16-07  
Nazarene Church  
Rezoning

The following ordinance was presented to City Council for second reading and public hearing.

Ordinance 16-07: An ordinance to amend the zoning code and the map attached thereto by changing the zoning of +/- 8.665 acres (all of Inlot #2136) located north of West Main Street and West of Weller Drive, Office Service (OS) to Highway Service (HS) zoning classification.

Clerk of Council Summary: The Planning Board reviewed and recommended a zoning designation change from Office Service (OS) to Highway Service (HS) for the Tipp City Church of the Nazarene Property located at 1221 West Main Street.

City Manager Report: Mr. Collinsworth noted that the Tipp City Church of the Nazarene at 1221 West Main Street had requested a rezoning of their 8.67 acre tract (Inlot 2136) from Office Service (OS) to Highway Service (HS). The Planning Board held a public hearing on this request at their March 13 meeting and recommended approval of this rezoning.

President Beagle opened the public hearing. Law Director Moore swore in those wishing to testify during the public hearing. There being no testimony, President Beagle closed the public hearing.

There being no additional comments, Mr. Evans sponsored this ordinance and moved for its adoption, seconded by Mayor Lovett. The motion unanimously carried. Ordinance 16-07 was declared passed and President Beagle affixed his signature in witness thereto.

**Resolutions**  
(One Reading  
Required)

Resolution 13-07  
Resurfacing Program

The following resolutions were presented to City Council for adoption.

Resolution 13-07: A resolution authorizing the City Manager to enter into a contract with the John R. Jurgensen Co. of Dayton, Ohio for the 2007 asphalt resurfacing program at a cost of \$198,987.35.

Clerk of Council Summary: A total of five bids were received for this year's annual paving program. John R. Jergensen Company of Dayton submitted the lowest and best bid in the amount of \$198,987.35.

City Manager Report: Mr. Collinsworth stated that \$200,000 was budgeted in the 2007 Capital Improvement Plan included asphalt resurfacing on a number of streets within the City and five contractors submitted bids ranging from a low of \$198,987.35 to a high of \$235,739. The lowest and best bid was submitted by John R. Jurgensen Co. of Dayton, Ohio in the amount of \$198,987.35. Mr. Collinsworth noted that the City would be able to resurface all or a portion of the following streets: Kiser Drive, Miles Avenue, Clark Circle, Amokee Place, Maynard Court, Thornburg Place, S. Tippecanoe Drive, and Tyler Lane. He added that John R. Jurgensen was an excellent paving contractor within the area and had performed numerous paving projects within the City over the years include four out of the last five years' paving programs.

Mr. Hale noted that he would be abstaining from the vote due to previous employment with John R. Jurgensen Co.

There being no further discussion, Mrs. Blakey sponsored this resolution and moved for its adoption, seconded by Mr. Ochs. The motion carried with a vote of 6-0, Mr. Hale abstained from the vote. Resolution 13-07 was declared passed and President Beagle affixed his signature in witness thereto.

Resolution 14-07  
Main Street  
Streetscape Phase II

Resolution 14-07: A resolution authorizing the City Manager to enter into a contract with Double Jay Construction, Inc. of Englewood, Ohio for the Main Street Streetscape, Phase 2 Project at a cost of \$1,056,494.63.

Clerk of Council Summary: Five bids were received for this project with Double Jay Construction of Englewood, Ohio providing the lowest and best bid in the amount of \$1,056,494.63.

City Manager Report: Mr. Collinsworth announced that bids were also taken for Phase II of the Main Street Streetscape project running from Tippecanoe to Hyatt. A total of five bids received for this project ranging from a low of \$1,056,494.69 to a high of \$1,236,712. He noted that the Engineer's Estimate for the project was \$1,160,064. The City budgeted \$1,250,100 for this construction contract; providing the City with contingency cushion should the project require it. The lowest and best bid was submitted by Double Jay Construction of Englewood, Ohio in the amount of \$1,056,494.69. Mr. Collinsworth noted that Double Jay was a reputable contractor in the area although they had not performed street work for the City in the past. The City Engineer checked their references and is satisfied that they are qualified and capable of doing the work.

There being no further discussion, President Beagle sponsored this resolution and moved for its adoption, seconded by Mrs. Blakey. The motion unanimously carried. Resolution 14-07 was declared passed and President Beagle affixed his signature in witness thereto.

**Ordinances  
(first reading)**

The following ordinances were presented to City Council for first reading. The second reading and public hearing will occur at the May 7, 2007 meeting.

N. Hyatt Assessments

Mr. Ochs sponsored an ordinance levying special assessments for the construction of curbs, gutters, sidewalks and driveway approaches on North Hyatt from W. Main St. north to N. Westedge and Park Avenue.

Clerk of Council Summary: This ordinance authorizes the levying of sidewalk, curb, gutter and driveway approach special assessments for certain property owners on North Hyatt Street between Main Street and Park Avenue.

City Manager Report: Mr. Collinsworth noted that with the completion of the N. Hyatt St. reconstruction project last year, the City was ready to move forward with levying assessments for sidewalk, curb & gutter. He stated that a total of 37 property owners were affected and have been mailed a final notice concerning the total actual construction cost for the work performed. The property owners can pay the invoiced amount now or have it placed on the property tax duplicate for payment over the next 10 years. Mr. Collinsworth reported that the total amount of

Sidewalk, Curb &  
Gutter Assessments

the proposed assessments was \$53,020.53, which amounted to an average assessment of \$1,433 per property owner.

Mrs. Blakey sponsored an ordinance levying special assessments for the construction of curbs, gutters, sidewalks and driveway approaches in various locations within the City of Tipp City, Ohio.

Clerk of Council Summary: This ordinance authorizes the levying of sidewalk, curb, gutter and driveway approach special assessments for certain property owners throughout the City of Tipp City.

City Manager Report: Mr. Collinsworth noted that the City had made several repairs throughout the City last year and billed the adjacent property owners for the repairs. He noted that 41 property owners had not paid their assessments. Upon passage of this ordinance the City will place the assessments on the tax duplicates to be repaid over a 10 year period in semi-annual installments with the property tax bill.

Donn Davis Way  
Rezoning

Mr. Hale sponsored an ordinance to amend the zoning code and the map attached thereto by changing the zoning of +/- 11.274 acres (part of Inlot #3737) located south and west of Donn Davis Way, from Light Industrial (I-1) to Highway Services (HS) zoning classification.

Clerk of Council Summary: The Planning Board has reviewed and recommends approval of this requested rezoning.

City Manager Report: Mr. Collinsworth reported that Berry-Logan Properties LLC requested a change in zoning for a portion of their landholdings along Donn Davis Way. This request concerns approximately 11.3 acres at the northwest corner of Donn Davis Way and East Kessler-Cowlesville Road. If approved the zoning would be changed from Light Industrial (I-1) to Highway Service (HS).

**Motions**  
Set Public Hearing  
Eidemiller Rezoning

Mrs. Blakey moved to schedule a public hearing on May 21, 2007 to consider the rezoning of +/- 75.565 acres located at 610 West Kessler-Cowlesville Road immediately west of the Meijer Distribution Center, seconded by Mayor Lovett. The motion carried with a vote of 7-0. Mrs. Blakey requested that a study session to further review this rezoning request. Mr. Moore determined that a study session on this matter would not violate the terms of the public hearing. Mr. Collinsworth asked Council to submit their questions and concerns to staff which will enable them to adequately prepare for the study session. Council agreed to hold the study session on May 7<sup>th</sup> prior to the 7:30 meeting time.

**Miscellaneous**  
BZA Case 02-07  
Appeal

President Beagle opened the public hearing to consider an appeal of a Board of Zoning Appeals decision that denied a three sign variance for the Antique and Artisan Show. Law Director Moore swore in those wishing to testify during the public hearing.

Mr. Collinsworth noted that the Downtown Merchants Association, represented by Ruth Safreed, requested three variances for the placement of a temporary sign at 718 Nelson Court, fronting I-75, to

promote the "Antique and Artisan Show." The Board of Zoning Appeals denied all three variances:

1. A variance of 16 days to the maximum allowable display period for a temporary promotional sign for a community activity or special event.
2. A variance of 58 square feet to the maximum allowable area for a temporary promotional sign for a community activity or special event.
3. A variance of 11 feet to the maximum allowable height for a temporary promotional sign for a community activity or special event.

Mr. Collinsworth noted that in 2006, these variances were appealed to City Council and two of the three variances were granted. Council granted variances for the area and height of the temporary sign but upheld the BZA's decision to deny the additional 16 day display period.

Mayor Lovett noted that due to a conflict of interest he would abstain from the discussion and vote.

Mrs. Safreed stated that the Antique and Artisan show would be held on June 30<sup>th</sup>. She stated that the event would bring much needed business to the downtown area. In an effort to reduce advertising expenses Mr. Borchers has granted the Association permission to place a sign on his property along the interstate. Mrs. Safreed stated that a sign that fit the code would be too small and not high enough to be seen. She stated that the downtown businesses would reach more customers if they were permitted to display the sign for an additional 16 day period.

Mr. Vath stated that the BZA was prohibited from taking any action on the height and area variance request. The Board also recommended a multi-year decision, since the Downtown Merchants Association is planning to hold the event annually.

President Beagle asked Mr. Vath if this variance request was identical to the request made in 2006. Mr. Vath confirmed the requests were the same.

Mr. Evans moved to close the public hearing, seconded by Mr. Hale. The motion carried with a vote of 6-0. Mayor Lovett abstained.

Mr. Mains asked if Council supported a multi-year variance for the area and height of the sign. President Beagle stated that he would support the multi-year variance. President Beagle stated that he opposed the additional 16 day display period. He stated that in his opinion a 14 day advertising period would be more effective than a 30 day period.

Mrs. Blakey stated that last year there were issues with the removal of the sign. Mr. Collinsworth stated that perhaps there wasn't a clear understanding as the time requirement to remove the sign. He noted that the sign was removed after a phone call.



Mrs. Blakey stated that she was in favor of a permanent sign along the interstate rather than placing signs in back yards.

President Beagle asked if a trail blazer sign would have changeable copy. Mr. Collinsworth stated that the sign would be fixed not changeable.

Mrs. Blakey asked if a billboard had been considered. Mr. Collinsworth noted that the City Code would not permit a billboard. He noted that the City had executed a contract to place a trail blazer sign on both northbound and southbound I-75 at Exit 68 which will identify Tipp City's Historical District.

Mr. Evans moved to grant the applicant a variance of 58 square feet to the maximum allowable area for a temporary promotional sign and an 11 feet variance to the maximum allowable height for a temporary promotional sign for a community activity or special event for a three year term and required the sign to be removed immediately after the event; he also moved to deny the request for a variance of 16 days to the maximum allowable display period for the sign, seconded by President Beagle. The motion carried with a vote of 5-1. Mayor Lovett abstained and Mrs. Blakey voted nay.

**Citizen Comments**  
L. Brown

Larry Brown, 6650 S. Tipp-Cowlesville Road, stated that it was ironic that the City commemorate Arbor Day and call Tipp City a Tree City and allow many trees to be mangled and abused. He stated that the trees in his neighborhood were damaged during the recent sewer installation of Hunter's Ridge Subdivision. Mr. Brown stated that DP&L subcontractors moved poles and trimmed trees. He asked if the City had a policy to make property owners aware of projects to initiate discussions and options can be arrived at. Mr. Brown stated that people were not willing to think creatively to minimize the damage to trees in this area.

Mr. Collinsworth stated that the City's sewer project necessitated the relocation of the power poles owned by DP&L in the public right-of-way. He stated that DP&L then determined the best location for the poles, not the City's decision. Mr. Collinsworth suggested Mr. Brown meet with the Utility Director to discuss the project.

Mr. Brown stated that he spoke with Christy Butera and was led to believe the City determined where the poles would be relocated. He stated that the lines could have been placed closer to the roadway and the trimming could be avoided. Mr. Brown distributed a picture of a pine tree that was "scalped" during the project. He stated that the City has let Hunters Ridge drive the project and let residents be at the mercy of DP&L and their contractors. He stated that the City should oversee all aspects of a project rather than letting citizens fend for themselves. Mr. Brown stated that it was unfair to the residents and a poor way to run a City.

Mayor Lovett asked if these poles were in DP&L's easement. Mr. Collinsworth stated that DP&L did not have the right to trim trees on private property but if there were in an easement or in the public right-of-way DP&L could trim them.

Mr. Brown said that the poles seem to be on the line of the easement. Mayor Lovett stated that DP&L had the right to remove vegetation within the easement.

Mr. Collinsworth stated that the City meets with DP&L when pole relocation is necessary and the scope of the project is identified. From that point, DP&L will provide a recommendation for the relocation of the poles. He stated that the Utility would drive the relocation to meet their service requirements.

Mr. Brown said that when asked to use existing poles across the street DP&L indicated that they were not allowed to use Tipp City power poles and vice versa. He said that the City should be in the business of sharing and minimizing harm to vegetation and the aesthetics of a property owner's property.

President Beagle recommended that Mr. Brown sit down with the Utilities Director and discuss this matter. Mr. Brown stated that it is too late to do anything about it now.

Mr. Collinsworth stated that the City makes every effort to work within the context of the existing landscape and sometimes there is no way around having a tree being trimmed or in some cases removed given the demands and scope of the project. He stated that he would be happy to discuss this matter further with the utilities staff and Mr. Brown.

Mr. Brown requested the City look at their policies and how property owners are notified about projects in the future. Mr. Collinsworth stated that if the project is being done by city contractors or city crews the City's policy is to notify property owners before the work begins. Mr. Collinsworth stated that he could not say why DP&L didn't notify property owners.

Mr. Brown stated that DP&L did notify them that poles were going to be moved and trees were going to be moved but the City didn't consider any other possibilities. Tipp City drove the project and should have notified people and not left the responsibility to DP&L.

In addition, Mr. Brown referenced the substation southeast of his residence. He stated that it has become a parking lot for various tree trimmers and subcontractors and it is quite noisy. The trucks run in the winter and reverberate through his home. Mr. Brown asked if DP&L was permitted to let subcontractors park at the substation and disturb the citizens of Tipp City.

Mr. Collinsworth stated that would be happy to check into the zoning of the property and its permitted uses.

S. McGillvary

Suzanne McGillvary, 616 West Main Street, she noted that during the meeting staff members said that quotes for Phase II of the Streetscape Project had come in under budget and asked if the savings would be passed on to affected property owners. Mr. Collinsworth stated that the project Mrs. McGillvary referenced was the N. Hyatt Street Project. He noted that the unit prices for assessments are based upon the actual bid prices.



Ms. McGillvary then reference the pre-meeting study session in which staff stated that quotes were under budget. Mr. Collinsworth stated that the bid had been under the engineer's estimate when the project was bid. He stated that the City would bill on the actual cost not the estimate.

Ms. McGillvary noted that a forum has been posted at [www.tippvoice.com](http://www.tippvoice.com) where citizens can talk about issues. On Tuesday, April 17<sup>th</sup> at 10 a.m. in Columbus the legislature will hear comments on eminent domain projects and consider future laws.

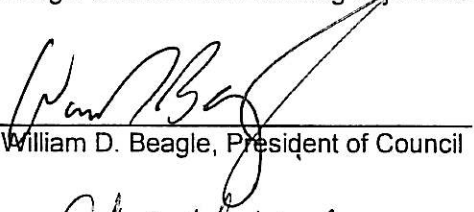
**City Manger  
Comments**

Mr. Collinsworth noted that the Lost Creek Prairie burning would occur next week. The Honeycreek Watershed Festival would be held on Sunday, April 29<sup>th</sup> from 12 p.m. - 6 p.m.


Mr. Collinsworth noted that Tipp City will receive a \$500,000 SIF Grant to extend Kinna Drive 675 feet to the south of the current intersection of Blauser Drive and 800 feet to the north. This roadway will help to facilitate the anticipated expansion of Transfreight property and open additional 80 acres for development within the community. This grant was only awarded to 8 communities throughout the state of Ohio. He thanked Gateway Center Development, Transfreight, Miami County Development Director Jim Hill, Miami County Commission, and Assistant City Manager Brad Vath for their contributions and efforts in pulling the grant together.

**Adjournment**

There being no further business, it was moved by Mr. Ochs, seconded by Mayor Lovett, that the meeting be adjourned. The motion unanimously carried. President Beagle declared the meeting adjourned at 8:54 p.m.

  
William D. Beagle, President of Council

Attest:

  
Misty Cheshire, Clerk of Council